

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

F.A.O. No.1879 of 2018 (O&M)

Date of Decision: 19.04.2018

Reliance General Insurance Co. Ltd.

....Appellant (s)

Versus

Babita Devi & others

Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Sanjeev Kodan, Advocate
for the appellant(s).

HARI PAL VERMA, J. (Oral)

The appellant-insurance company has filed the present appeal against the award dated 17.02.2018 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as “the Tribunal”), whereby the claim petition filed by the respondent-claimants under Section 166 of the Motor Vehicles Act, 1988 was allowed and the respondent-claimants were held entitled for a total compensation of Rs.18,00,375/-.

Briefly stated, the claimants had filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Vikram, aged about 26 years, in a motor vehicular accident which took place on 07.08.2016. Though the claimants have projected their claim on the plea that the deceased was earning Rs.20,000/-

per month, but considering the minimum wages of an unskilled labourer, as

notified by the Chandigarh Administration for the relevant period, the income of the deceased was assessed as Rs.8,125/- per month and since the deceased was 26 years of age, the multiplier of '17' was applied in view of judgment of Hon'ble the Apex Court in the case of **Sarla Verma & Ors vs Delhi Transport Corp and another (2009) 6 SCC 121**. Similarly, claimants were also held entitled for addition of income @ 40% towards 'future prospects' along with compensation under 'other conventional heads' in view of judgment of Hon'ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR(Civil) 1009**.

Learned counsel for the appellant has argued that there was no evidence that the deceased was earning Rs.325/- per day, the very basis on which the compensation has been awarded to the claimants. The deceased was not self-employed or receiving fixed wages and therefore, no addition towards 'future prospects' was admissible. There was contributory negligence on the part of the deceased and thus, the award needs to be modified, accordingly.

I have heard learned counsel for the appellant and find that the impugned award passed by the Tribunal is a well reasoned one. The income of the deceased has been considered as an unskilled labourer and during the relevant period i.e. 7.8.2016, the wages of an unskilled labourer were around Rs.325/- per day and as a labourer worked for minimum 25 days per month, the income of the deceased was rightly assessed as Rs.8125/- per month. The deceased was 26 years of age, therefore, multiplier of '17' was rightly applied in view of judgment of **Sarla Verma** (*Supra*). Similarly, the Tribunal has rightly awarded compensation under

the other conventional heads as per the judgment in case of **Pranay Sethi** (*Supra*) including the addition under 'future prospects'. The plea of contributory negligence has not been established in any manner and the deceased has died on account of rash and negligent driving of the offending vehicle.

Accordingly, this Court does not find any merit in this appeal and the same is dismissed.

However, dismissal of the present appeal shall not prejudice the right of the claimants in case they file an appeal seeking enhancement of compensation.

April 19, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No